

**NOTICE OF JUDGMENT
SUMMARY PROCESS
(EVICTION)**

**STATE OF CONNECTICUT
SUPERIOR COURT**

www.jud.ct.gov



JD-HM-1 Rev. 4/09 (Edison)
C.G.S. §§ 47a-26h(b), 47a-35, 47a-36, 47a-37

NHHCV185002956S
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**NOTICE TO ALL OCCUPANT(S)
NOT NAMED IN JUDGMENT**

If you have not been named as a party to this summary process (eviction) case, and you claim to have a right to continue to stay in the premises, you should immediately fill-out and file with the Clerk's Office a Claim of Exemption from the judgment. You may get a Claim of Exemption from the Clerk at the address listed below or from the Judicial Branch website at: www.jud.ct.gov.

Superior Court Housing Session at New Haven	Docket Number NHHCV185002956S
Clerk's Office Address 121 Elm New Haven 06510 (203)789-7937	Amount of Court Costs \$0
Name of Case TORRELO, MICHAEL V. ARTIS, TOMMIE	Date of Judgment June 8, 2018
Address of Premises 132 West Elm Street, New Haven CT 06515	

Notice to Defendant(s)/Tenant(s)

Judgment for the Plaintiff (landlord) was entered against you for immediate possession of the premises named in the complaint and which you stay in. You are notified that:

Please read completely the information below:

You may be evicted from (required to leave) the premises named in the complaint and stayed in by you after 5 days from the **Date of Judgment** shown above. You may ask the court to delay your eviction for up to 3 months by doing **both A and B below** within 5 days from the Date of Judgment shown above. (Any Sunday or legal holiday that comes during the 5 day period is not included in counting the 5 day period.)

A. You must give the Clerk of the Court at the above address the full amount of the arrearage (back rent and/or use and occupancy payments) that you owe to the landlord. (*Payment must be made by certified check or money order payable to the Clerk of the Superior Court, or by cash.*)

AND

B. Complete and file with the Clerk an Application For A Stay of Execution which is available at the Clerk's Office at the above address

Additional Orders:

SEE ATTACHED DECISION

Summary:

Judgment for the Plaintiff for the non-payment of April 2018 rent. The Court grants the Defendants a Stay of Execution through July 31, 2018. The Execution may issue if the Defendants have not vacated the premises as of August 1, 2018.

By the Court	Clerk	Date of Order
WALTER MICHAEL SPADER JR	William Pitt	June 8, 2018

Appearances

Self-Rep: MICHAEL TORELLO 134 HUBINGER STREET, NEW HAVEN CT 06511

Self-Rep: TOMMIE ALLEN ARTIS 132 WEST ELM STREET, NEW HAVEN CT 06515

Self-Rep: KIMBERLY GRIFFITH-ARTIS AKA KIMBERLY GRIFFIN ARTIS 132 WEST ELM STREET, NEW HAVEN CT 06515

Nonappearing Parties

JOHN DOE 1 132 West Elm Street, New Haven CT 06515

JOHN DOE 2 132 West Elm Street, New Haven CT 06515

JOHN DOE 3 132 West Elm Street, New Haven CT 06515

JANE DOE 1 132 West Elm Street, New Haven CT 06515

JANE DOE 2 132 West Elm Street, New Haven CT 06515

JD-HM-1 NHHCV185002956S 6/8/2018

DOCKET NO: NHHCV185002956S

SUPERIOR COURT

ORDER 438579

TORELLO, MICHAEL
V.
ARTIS, TOMMIE Et Al

HOUSING SESSION
AT NEW HAVEN

6/8/2018

ORDER

The following order is entered in the above matter:

ORDER:

Disposition: JUDPLT - JUDGMENT FOR IMMEDIATE POSSESSION AFTER TRIAL

***** Notice of Judgment - Summary Process (Eviction) *****

The Plaintiff filed the present action on May 15, 2018, alleging that the defendants failed to pay rent for April and May, 2018. The filing followed the service of a notice to quit for non-payment of rent on May 3, 2018. The Plaintiff owns the property at 132 West Elm Street in New Haven and the parties entered into a lease that commenced on November 15, 2016 and terminated on May 31, 2018. The monthly rental amount was set at \$1800.00.

To prevail on a claim for nonpayment of rent, the Plaintiff must establish, by a fair preponderance of the evidence, the following essential elements: (1) a rental agreement; (2) that the plaintiff is the lessor or owner of the premises; (3) the address of the subject premises; (4) the amount of rent due to the plaintiff from the defendant; (5) when the rent was due to the plaintiff; (6) the date of nonpayment; (7) the service of the notice to quit, as well as its service date and termination date; and (8) that the defendant is still in possession. Connecticut General Statute §47a-15a et seq.

If the Plaintiff sets forth the essential elements of his case, the case turns to the Defendants' Defenses to see may have valid reasons to withhold rental payments. Landlords have statutory responsibilities to their tenants pursuant to Connecticut General Statute §47a-7, and when those responsibilities are not fulfilled, the tenant is not responsible for rental payments during the period of non-compliance, pursuant to Connecticut General Statute §47a-4a. "[B]ecause no rent is due or owing for these periods, no summary process action can be successful if it is based on nonpayment of rent." *Pediment Homes, Inc. v. Russell*, Appellate Session of the Superior Court, Docket No. A.S. 709, February 15, 1980

Connecticut General Statute § 47a-7(a)(1) provides: "A landlord shall ... [c]omply with ... all applicable building and housing codes materially affecting health and safety of both the state or any political subdivision[.]" Connecticut General Statute § 47a-4a provides: "A rental agreement shall not permit the receipt of rent for any period during which the landlord has failed to comply with subsection (a) of section 47a-7." Sections 47a-7 and 47a-4a signify that a tenant need not pay rent if the landlord fails to comply with applicable building, housing and fire codes, and such failure materially affects the tenant's safety or renders the premises uninhabitable

Among the responsibilities set forth in Connecticut General Statute §47a-7 are that the landlord shall "(2) make all repairs necessary to put and keep the premises in a fit and habitable condition. . ." and "(4) maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating and other facilities and appliances and elevators, supplied or required to be supplied by him."

"Courts which have considered the relationship between General Statutes Secs. 47a-7 and 47a-4a have uniformly concluded that where the premises have been rendered uninhabitable by virtue of rodent and roach infestation, the tenant is relieved from the obligation to pay rent and may raise the uninhabitability of the apartment as a defense to a summary process action based on nonpayment of rent. . . . Whether the premises is uninhabitable to the extent that the tenant is relieved of the obligation to pay rent depends on the facts of each individual case and whether the uninhabitability is caused by the tenant." (Citations omitted.) *Housing Authority v. Williams*, Superior Court, judicial district of Hartford-New Britain at Hartford, Docket No. SPH 92006-65824 (October 8, 1992, Holzberg, J.) (Hartford #987).

As summarized by Judge dos Santos in *Landon v Gelineau*, WWM-CV-17-5007122-S (November 22, 2017, J.D. Windham and Putnam): "[F]or a tenant to make a successful claim that he had the right to withhold payment of rent, he must show that the landlord's failure to comply with § 47a-7(a) 'materially affects his safety'; *Tucker v. Lopez*, 38 Conn.Sup. 67, 69 (1982); or has rendered the premises 'uninhabitable.' *Steinegger v. Rosario*, 35 Conn.Sup. 151, 156 (1979) ... [T]o establish uninhabitability, the tenant needs to do more than assert a unilateral, self-serving statement that the premises are untenable. *Evergreen Corporation v. Brown*, 35 Conn.Sup. 549, 552 (1978) (suggesting that a tenant 'utilize the broad range of municipal boards, agencies, and commissions' to remedy defects)." *Visco v. Cody*, 16 Conn.App. 444, 450 (1988). "[T]he sanctions in [§ 47a-4a] are not triggered until and unless evidence is adduced at trial establishing that there is a substantial violation or series of violations of housing and health codes creating a material risk or hazard to the occupant ..." (Citations omitted.). *Visco* at 450-451.

After a trial on June 4, 2018, in which the court weighed all the evidence and assessed the credibility of the witnesses, the court makes the following findings regarding the respective claims and defenses:

- 1) The Plaintiff is the owner of the property located at 132 West Elm Street in New Haven;
- 2) There is a valid lease for the period of October 1, 2016 through May 31, 2018;
- 3) The Defendants have not paid April, May or June 2018 "rent" or use and occupancy;
- 4) There was a valid notice to quit filed in this matter;
- 5) The Defendants are in possession of the premises;
- 6) The City of New Haven's Livable City Initiative ("LCI"), pursuant to an inspection on March 14, 2018, found exterior code violations based upon conditions of the garage, but said condition does not specifically hinder the habitability of the interior portion of the property;
- 7) LCI, pursuant to an inspection on May 1, 2018, found, among other items, safety concerns with the garage not being removed/fixed, and found that smoke detectors were missing; carbon monoxide detectors had to be replaced, and there were water leaks and associated damage.
- 8) The Court finds the Defendants' testimony credible as to the poor condition of the plumbing;
- 9) The Court finds the Plaintiffs' testimony about the speed in which he plans on doing the repairs lacking in credibility. And finds that the Plaintiff did not present the Court with evidence that he satisfied the May 1, 2018 LCI violations.

There is no question that April and May rent were unpaid. The Defendants should not have resorted to self-help and simply stopped paying the rent while their concerns were addressed with LCI. External issues that do not affect the habitability of the premises do not excuse rental payments. Of the evidence before the Court, without testimony and reports, the Court cannot find evidence of lack of smoke detectors for more than 1 day, but the Court does find the Plaintiff's lack of addressing the water and plumbing concerns troublesome and callous.

This is also the second summary process case between these parties. The prior case was resolved with a Stipulation and an Execution issued, which apparently was never satisfied, as the parties continued their relationship to the present case.

With the finding of the Court that as of at least the May 1, 2018 LCI Report there were demonstrable water and plumbing issues and as of this Trial Date the Court does not believe the concerns were adequately addressed, the Court finds that the tenants do not owe for MAY OR JUNE 2018 Use and Occupancy. The Court does find that the APRIL 2018 rent was unpaid.

Judgment shall enter for the Plaintiff for the non-payment of April 2018 rent in the amount of \$1,800.00. Based upon the unaddressed conditions of the property and the Court weighing the equities of the parties, the Court grants the Defendants a Stay of Execution through July 31, 2018. The Execution may issue if the Defendants have not vacated the premises as of August 1, 2018.

The Court is NOT requiring use and occupancy payments from the Defendant for July 2018, nor making findings as to July 2018 habitability. If the Plaintiff actually does repair the property, he can demonstrate such repairs and any entitlement he may feel he has to payment from the Defendants at a subsequent small claims proceeding.

Judicial Notice (JDNO) was sent regarding this order.

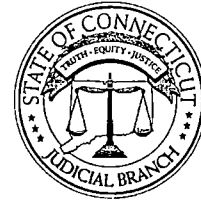
438579

Judge: WALTER MICHAEL SPADER JR

**NOTICE OF JUDGMENT
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Additional Orders:

103.00 MOTION FOR DEFAULT FOR FAILURE TO APPEAR AND JUDGMENT OF POSSESSION SUMMARY PROCESS

The foregoing, having been considered by the Court, is hereby:

ORDER: GRANTED

***** Notice of Judgment - Summary Process (Eviction) *****

Name of Defendant(s)/Tenant(s): JOHN DOE 1, JOHN DOE 2, JOHN DOE 3, JANE DOE 1, JANE DOE 2

Date of Judgment: JUNE 8, 2018

JUDGMENT FOR PLAINTIFF BASED UPON NON-PAYMENT OF RENT

By the Court	Clerk	Date of Order
WALTER MICHAEL SPADER JR	William Pitt	June 8, 2018

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